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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of: **Yusaku FUJII et al.**

Group Art Unit: **2137**

Application Number: **09/425,736**

Examiner: **Nadia Khoshnoodi**

Filed: **October 22, 1999**

Confirmation Number: **9951**

For: **ILLEGAL ACCESS DISCRIMINATING APPARATUS AND  
METHOD**

Attorney Docket Number: **991176**

Customer Number: **38834**

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

December 1, 2006

Sir:

In response to the Notice of Non-Compliant Appeal Brief dated November 1, 2006, Applicants submit this paper providing a new summary of claimed subject matter in compliance with 37 C.F.R. § 41.37(c)(1)(v). MPEP § 1205.03(B). The following summary of claimed subject matter replaces Section "V. Summary of Claimed Subject Matter" of the Appeal brief filed on August 2, 2006.

**The Summary of Claimed Subject Matter begins on page 2 of this paper.**

**Remarks begin on page 7 of this paper.**

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention is directed to an illegal access discriminating apparatus and method.

With respect to claim 1, an illegal access discriminating apparatus (see e.g., Fig. 1; and page 16, line 26 – page 17, line 1) that is placed in advanced of a user authentication system (see e.g., page 18, lines 21-26) using biometrics which needs user information comprised of ID information (see e.g., user input ID information 30 in Fig. 1; and page 17, lines 14-15) and organic information (see e.g., organic information 32 in Fig. 1; and page 17, lines 14-15 and 20-25) comprising:

a first storing unit (see e.g., organic information input storing unit 18 and ID information input storing unit 20 in Figs. 1 and 12B) for temporarily storing the latest pair of ID information and organic information inputted by a user when the user is being authenticated (see e.g., page 19, lines 5-12),

a second storing unit (see e.g., use information storing unit 22 in Figs. 1 and 2) for storing pairs of ID information and organic information which were inputted by arbitrary users within predetermined time (see e.g., page 9, line 13 – page 10, line 13; page 34, line 19 - page 35, line 4; page 36, lines 14-26; and page 40, lines 15-21), wherein said ID information and organic information is transferred from said first storing unit to said second storing unit after each authentication (see e.g., page 19, line 12 - page 20, line 3);

a comparing and collating unit (see e.g., organic information collating unit 24 and ID information comparing unit 26 in Fig. 1) for comparing and collating the latest inputted ID information and organic information with all of ID information and organic information stored in said second storing unit which were inputted (see e.g., page 20, lines 4 – 25; page 49, line 21- page 50, line 3; and steps S1 and S2 of the flowchart in Fig. 17) and not previously registered in the past (e.g., page 18, lines 4 – 26); and

a control unit (see e.g., control unit 28 in Fig. 1) for discriminating authentication demand by an attacker by counting the number of said comparing-collating results which satisfy predetermined conditions (see e.g., discriminating rule 3, page 21, line 21 – page 24, line 17; step S3 of the flowchart in Fig. 17; and page 50, lines 3-9) and judging authentication demand as the one by an attacker if said counted number exceeds predetermined value (see e.g., steps S4 and S5 of the flowchart in Fig. 17; and page 50, lines 6-16).

With respect to claim 12, an illegal access discriminating method (see e.g., page 13, line 20 – page 14, line 13) that is placed in advanced of a user authentication system (see e.g., page 18, lines 21-26) using biometric which needs user information comprised of ID information (see e.g., user input ID information 30 in Fig. 1; and page 17, lines 14-15) and organic information (see e.g., organic information 32 in Fig. 1; and page 17, lines 14-15 and 20-25), comprising:

a first storing step of temporarily storing the latest pair of ID information and organic information inputted by a user when the user is being authenticated (see e.g., page 19, lines 5-12);

a second storing step of storing pairs of ID information and organic information which were inputted by arbitrary users within predetermined time (see e.g., page 9, line 13 – page 10, line 13; page 34, line 19 - page 35, line 4; page 36, lines 15-26; and page 40, lines 15-21), wherein said ID information and organic information is transferred from said first storing unit to said second storing unit after each authentication (see e.g., page 19, line 12 - page 20, line 3);

a comparing and collating step of comparing and collating the latest inputted ID information and organic information with all of ID information and organic information stored in said second storing step which were inputted in the past (see e.g., page 20, lines 4 – 25; page 49, line 21-page 50, line 3; and steps S1 and S2 of the flowchart in Fig. 17); and

a control step of discriminating authentication demand by an attacker by counting the number of said comparing-collating results which satisfy predetermined conditions (see e.g., discriminating rule 3, page 21, line 21 – page 24, line 17; step S3 of the flowchart in Fig. 17; and page 50, lines 3-9) and judging authentication demand as the one by an attacker if said counted number exceeds predetermined value (see e.g., steps S4 and S5 of the flowchart in Fig. 17; and page 50, lines 6-16).

The illegal access discriminating apparatus of the present invention is provided as a supporting apparatus for a service providing system (see e.g., page 18, lines 21-26).

In general, a service providing system has a configuration of giving an authentication for authorization to use to a user by registering user's ID and biometrics information in advance, and collating with these registered pieces of information (see e.g., page 1, lines 20-27 and page 17, lines 6-20). The present invention relates in contrast to an illegal access discriminating apparatus which detects an illegal access to a service providing apparatus (see e.g., page 1, lines 6-9).

In the present invention, the comparing and collating unit compares the lasted inputted ID information and organic information with all the ID information and organic information that was stored in the second storing unit within a predetermined time. As such, for example, as discussed on page 23, lines 10-16 of the present specification, when the first pair of ID and organic information (ID1, LB1) is stored in the second storing unit at time t1, the first pair (ID1, LB1) can not be compared to other pairs for coincidence, since no other relevant pairs have been stored in the second storing unit. As further discussed on page 23, lines 15-25, when a second pair (ID2, LB1) is inputted at time t2, see Fig. 3, the second pair (ID2, LB1) can be compared against the first pair (ID1, LB1), since the first pair has been previously stored in the second storing unit. Moreover, since the ID information of the first and second pairs coincide; and the organic information of the first and second pair do not coincide, discriminating rule 1 (predetermined condition) is satisfied and the control unit 28 determines that an illegal access has been made.

In a preferred embodiment, for example, as discussed in page 26, lines 17 – page 27, line 5, the discriminating rule 3 (predetermined condition) is satisfied when the ID information does not coincide and the organic information coincides or when the ID information coincides and the organic information does not coincide on the basis on the comparison and collation results. Moreover, discriminating rule 3 can be modified to correspond to discriminating rule 6, see pages 48 and 49, which includes the same predetermined conditions as rule 3, but only determines that an illegal access has been made by an attacker when the number of predetermined conditions that have been satisfied exceeds a predetermined value, see step S4 of Fig. 17.

### REMARKS

In the Notice of Non-Compliant (Notice) Appeal Brief, the Examiner asserts that the Summary of the Claimed Invention provided in the Appeal Brief filed on August 2, 2006 is deficient pursuant to the requirements listed in box four (4) of said Notice. In addition, the Examiner asserts in box ten (10) of said Notice that, “[m]erely reciting the claim features with reference to specification/figures in the summary is not sufficient as a concise explanation of the subject matter defined in each of the independent claims.”

However, it is submitted that the Examiner has failed to cite any specific Patent rule or section of the MPEP to support this position outline in box (10). In addition, it is noted that MPEP § 1205.02(v) requires:

*\*\*>(v) Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters.< While reference to page and line number of the specification *\*\*>requires<* somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. >For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. If appellant does not provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), the Office will notify appellant of the defect in the brief and give appellant a time period within which to file an amended brief. See 37 CFR 41.37(d).<

In view of the above requirements, it is submitted that the recitations of independent claims 1 and 12 provided in the Summary of the Claimed Invention provided in the Appeal Brief filed on August 2, 2006 with the corresponding references to the specification and figures providing support for the claimed features appears to be exactly what is required by MPEP § 1205.02(v).

Moreover, it is submitted that the Summary of the Claimed Invention provided in the Appeal Brief filed on August 2, 2006 in addition to the recitation of independent claims 1 and 12 with reference to the Specification and Figures also includes a concise explanation of the claimed subject matter with reference to a preferred embodiment described in the specification. As such, it is believed that the Summary of the Claimed Invention provided in the Appeal Brief filed on August 2, 2006 does comply with the requirements of 37 CFR 41.37(c)(1)(v)).

In any event, to further the prosecution of the present application, it is submitted that the Summary of the Claimed Invention provided herewith has been modified such that all parts thereof include citations to the specifications in order to comply with the Examiner's further comments provided in box ten (10) of said Notice regarding, "page 5 of the appeal brief filed, there are no citations to the specification."

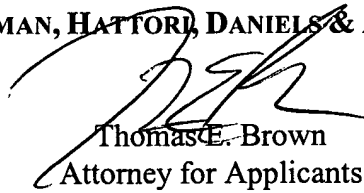


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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**



Thomas E. Brown  
Attorney for Applicants  
Registration No. 44,450  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

TEB/jl